

paid within the taxable year on policy and annuity contracts to policyholders in excess of the reserve set up during the taxable year.

SEC. 318. *Basis of Return of Net Income.*

Computation of net income by method of accounting used by taxpayers.

1. The net income of a taxpayer shall be computed in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but such method of accounting must be consistent with respect to both income and deductions, but if in any case such method does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the commissioner does clearly reflect the income, but shall follow as nearly as practicable the Federal practice, unless contrary to the context and intent of this article.

Consent of Commissioner to change from fiscal to calendar year.

2. A taxpayer may, with the approval of the Commissioner of Revenue, and under such regulations as he may prescribe, change the income year from fiscal year to calendar year or otherwise, in which case his net income shall be computed upon the basis of such new income year: *Provided*, that such approval must be obtained from the commissioner at least thirty days prior to the end of such income year.

Partnership income based on distributive shares.

3. An individual carrying on business in partnership shall be liable for income tax only in his individual capacity, and shall include in his gross income, whether distributed or not, his distributive share of the net income of the partnership and dividends from foreign corporations for each income year.

Beneficiaries must return their shares of trust estates.

4. Every individual taxable under this article who is a beneficiary of an estate or trust shall include in his gross income the distributive share of the net income of the estate or trust received by him or distributable to him during the income year. Unless otherwise provided in the law, the will, the deed, or other instrument creating the estate, trust, or fiduciary relation, the net income shall be deemed to be distributed or distributable to the beneficiaries (including the fiduciary as a beneficiary, in the case of income accumulated for future distribution), ratable in proportion to their respective interest.

SEC. 318½. *Subsidiary Corporations.*

Determination of income of subsidiary corporations.

The net income of a corporation which is a subsidiary of another corporation or closely affiliated therewith by stock ownership shall be determined by eliminating all payments to the parent corporation or affiliated corporations in excess of fair value and by including fair compensation to such foreign corporation for all commodities sold to or service performed for the parent corporation or affiliated corporations. For the purpose of determining such net income the commissioner may, in the absence of satisfactory evidence to the contrary, presume that an apportionment by reasonable rules of the consolidated net income of corporations participating in the filing of a con-

Apportionment between parent and subsidiary.